

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE:	§	CASE NO.: 11-10258
	§	CHAPTER 11
BANKS HOLDING, LP,	§	
Debtor.	§	<u>NOTICE OF OPPORTUNITY</u>
	§	<u>FOR HEARING</u>

NOTICE IS HEREBY GIVEN that a Motion for Relief From Stay has been filed by Macon Bank, Inc. A copy of the Motion accompanies this Notice.

TAKE FURTHER NOTICE that any response, including objection, to the relief requested in the attached Motion, should be filed with the Clerk of the Bankruptcy Court within fourteen (14) days of the date of this Notice and a copy served on the attorney identified below and upon other parties as required by law or Court order. Any response shall clearly identify the specific Motion to which the response is directed, and it shall comply fully with Local Bankruptcy Rule 9013-1.1b.

Address of Clerk: Clerk, United States Bankruptcy Court
Western Division
100 Otis Street
Asheville, NC 28801

TAKE FURTHER NOTICE that if a response is timely filed and served, the Court will conduct a hearing the 18th day of May, 2011 at 9:30 a.m., in the United States Bankruptcy Court in Asheville, North Carolina at 100 Otis Street. No further notice of this hearing will be given.

THIS the 28th day of April, 2011.

VAN WINKLE, BUCK, WALL,
STARNES AND DAVIS, P.A.

By: s/ Mark A. Pinkston
Mark A. Pinkston
NC State Bar No. 16789
Attorney for Creditor
11 North Market Street
Post Office Box 7376
Asheville, NC 28802
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

IN RE:

BANKS HOLDING, LP,
Debtor.

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CASE NO.: 11-10258
CHAPTER 11

**MOTION FOR ADEQUATE PROTECTION AND RELIEF FROM THE AUTOMATIC
STAY AND REQUEST FOR APPLICATION OF 11 U.S.C. §362(e)**

1. The Creditor making this Motion is Macon Bank, Inc., hereinafter referred to as "Creditor".
2. The Creditor is owed money by the Debtor because of an Note, a copy of which is attached hereto as Exhibit "A".
3. The debt is secured by a Deed of Trust and Assignment of Note and Deed of Trust and collateral which is evidenced by the documents attached hereto as Exhibit "B". The collateral is more particularly described as follows:

*Real property known as 1700 acres Blankenship Creek (Prices Township),
Burnsville, NC 28714 more particularly described in Deed Book 513, Page
709, of the Yancey County Register of Deeds*

4. The balance of the debt is \$5,304,986.70 and said debt continues to accrue interest from the 18th day of March, 2011 and attorney's fees and Trustee fees are due as well. The debt has matured and is due in full.
5. The value of the collateral is approximately \$5,300,000.00.
6. That the amount of the indebtedness is increasing from day to day.
7. That the value of the collateral is decreasing from day to day.
8. That it appears that the Debtor or Trustee is using or selling or leasing said properties without providing adequate protection.
9. That the Debtor is in default under the aforesaid debt.
10. That the Creditor is entitled to recovery of its reasonable attorney fees.
11. Creditors and others having an interest in the collateral known to the Movant in order or priority are: None Known

12. The Creditor requests application of 11 U.S.C. §362(e).

WHEREFORE, the Creditor prays the Court as follows:

1. For an Order providing it adequate protection pursuant to 11 U.S.C. §361;
2. Immediate Relief from the Automatic Stay for cause pursuant to 11 U.S.C. §362(d);
3. An Order approving its attorney fees.
4. That Creditor be allowed a reasonable period of time to file a proof of claim for any deficiency balances resulting after disposition of the collateral.

THIS the 28th day of April, 2011.

VAN WINKLE, BUCK, WALL,
STARNES AND DAVIS, P.A.

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NC State Bar No. 16789
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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing Notice of Opportunity for Hearing and Motion for Relief from the Automatic Stay in the above-entitled action upon all other parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, addressed as follows or as electronically filed and served:

Edward C. Hay, Jr. served electronically

US Bankruptcy Administrator served electronically

Banks Holding, LP served by US Mail
PO Box 1037
Burnsville, NC 28716

THIS the 28th day of April, 2011.

s/ Mark A. Pinkston

Mark A. Pinkston

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